



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18th STREET - SUITE 300
DENVER, COLORADO 80202-2466
<http://www.epa.gov/region08>

July 8, 2003

Ref: 8ENF-T

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Floyd Phillips, Chairman
Shoshone Utility Organization
Ft. Washakie Water Treatment Plant
27 North Fork Road
P.O. Box 338
Ft. Washakie, WY 82514

Re: Administrative Order
Docket No. **SDWA-08-2003-0039**
Shoshone Utility Organization
PWS ID #5690003

Dear Mr. Phillips:

Enclosed you will find an Administrative Order (Order), which the Environmental Protection Agency (EPA) has issued under the authority of the Safe Drinking Water Act (SDWA), 42 U.S.C. Section 300f et seq., and its implementing regulations. Among other things, the Administrative Order finds that Ft. Washakie Water Treatment Plant is a public water supplier as defined by the SDWA and that you have violated the National Primary Drinking Water Regulations (NPDWRs) at 40 CFR §§ 141.73(a)(1), 141.73(a)(2), 141.21(b), 141.21(b)(5), 141.72(b)(2), 141.201, 141.202, 141.75(b)(3), 141.21(g)(2), 141.31(b) and 141.75(b)(1) for: exceeding allowable turbidity levels; failure to monitor for bacteriological quality; failure to maintain a disinfectant residual concentration; failure to provide public notice of violations, failure to report total coliform, turbidity and SDWA violations to EPA; and failure to submit monitoring results to EPA within 10 days following the end of the monitoring period.

If you comply with the enclosed Order for a period of at least twelve months, EPA may choose to close the Order. Violating the enclosed Order may lead to (1) a penalty of up to \$27,500 per day of violation of the Order, (2) a separate such penalty for violating the regulations themselves, and/or (3) a court injunction ordering you to comply.



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Please note that the effective date of the enclosed Order is the date of issuance. Within the next 10 days, please provide EPA with any new information that you believe the Agency is not aware of relating to the alleged violations in the Order. The information can be sent to Melanie Wasco at the address on the letterhead, include the mailcode 8ENF-T, or you may call Ms. Wasco at (800) 227-8917, extension 6540, or (303) 312-6540. If you wish to have an informal conference with EPA, you may also call or write Ms. Wasco. If you are represented by an attorney or have legal questions, please call Michelle Marcu at the above 800 number, extension 6921, or at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosure
Order

cc: Vernon Hill, Chairman
Eastern Shoshone Business Council

Carolyn Worthington, Manager
Ft. Washakie Water Treatment Plant

Don Aragon, Executive Director
Wind River Environmental Quality Commission



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

IN THE MATTER OF)
)
Shoshone Utility Organization)
Ft. Washakie Water Treatment Plant, Operator)
27 North Fork Road)
P.O. Box 338)
Ft. Washakie, Wyoming 82514)
PWS ID# WY5690003)
)
Respondent)
)
) ADMINISTRATIVE
) ORDER
Proceedings under Section 1414(g))
of the Safe Drinking Water Act,)
42 U.S.C. § 300g-3(g)) Docket No. **SDWA-08-**
) **2003-0039**
)

The following Findings are made and Order issued under the authority vested in the Administrator of the U.S. Environmental Protection Agency (EPA) by Section 1414(g) of the Safe Drinking Water Act (the Act), 42 U.S.C. § 300g-3(g) and its implementing regulations, as properly delegated to the Assistant Regional Administrator of the Office of Enforcement, Compliance and Environmental Justice, EPA Region 8.

FINDINGS

1. Shoshone Utility Organization ("Respondent") is a tribal agency under the laws of the Eastern Shoshone Business Council and is therefore a "person" within the meaning of 40 C.F.R. § 141.2 for purposes of federal enforcement.



2. Respondent owns and/or operates a system, the Ft. Washakie Water System (the "System"), located on the Wind River Reservation, Ft. Washakie, WY, for the provision to the public of piped water for human consumption.
3. The Ft. Washakie Water System has at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents and is therefore a "public water system" within the meaning of Section 1401(4) of the Act, 42 U.S.C. § 300f(4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of Section 1401(5) of the Act, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of part B of the Act, 42 U.S.C. § 300g, and its implementing regulations, 40 C.F.R. part 141.
5. According to a May 15, 2003 sanitary survey by an agent for EPA, Respondent operates a system that is supplied solely by surface water sources consisting of the South Fork, Little Wind River, and when needed, the



North Fork, Little Wind River. Operating since 1978, the system serves approximately 3,350 residents annually through 620 service connections consisting of 600 residential service connections and 20 commercial service connections.

6. Respondent's portable turbidimeter, filter effluent turbidimeter and in-line chart recorder have disparate readings relative to each other, which result in conflicting daily data reported to EPA for required monitoring periods, in violation of 40 C.F.R. § 141.74.

FINDINGS OF VIOLATION

I.

1. 40 C.F.R. § 141.73(a)(1) specifies that the turbidity level of representative samples of a system using conventional filtration must be less than or equal to 0.5 Nephelometric Turbidity Units ("NTU") in at least 95 percent of the measurements taken each month, applicable to public water systems that use water obtained from surface water or groundwater under the direct influence of surface water sources.
2. Monitoring results from the Respondent's public water system showed that the allowed turbidity limit was exceeded during May and June 2000; May 2001; May, July,



and August 2002; and May 2003, in violation of 40 C.F.R. § 141.73(a)(1).

II.

1. 40 C.F.R. § 141.73(a)(2) specifies that the turbidity level of representative samples of a system using conventional filtration must at no time exceed 5 NTU, applicable to public water systems that use water obtained from surface water or groundwater under the direct influence of surface water sources.
2. Monitoring results from the Respondent's public water system showed that the turbidity level was exceeded on July 19, 2002, in violation of 40 C.F.R. § 141.73(a)(2).

III.

1. 40 C.F.R. § 141.21(b) requires public water systems to collect a set of repeat samples within 24 hours of being notified of a total coliform positive routine sample.
2. Respondent failed to collect a set of repeat samples for the July 2002 total coliform positive routine sample, in violation of 40 C.F.R. § 141.21(b).

IV.



1. 40 C.F.R. § 141.21(b) (5) requires public water systems that collect fewer than 5 routine samples per month and have one or more total coliform positive samples to collect at least 5 routine samples during the next month that the system provides water to the public.
2. Respondent failed to collect at least 5 routine samples in August 2002 after a total coliform positive sample in the preceding month, in violation of 40 C.F.R. § 141.21(b) (5) .

V.

1. 40 C.F.R. § 141.72(b) (2) requires that the residual disinfectant concentration in the water entering the distribution system not be less than 0.2 mg/L for more than 4 hours.
2. Test results show that the Respondent's system did not maintain a disinfectant residual concentration of at least 0.2 mg/L for more than 4 hours in September 2002, in violation of 40 C.F.R. § 141.72.

VI.

1. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any national primary drinking water regulations ("NPDWR") violations, including violations of the maximum



contaminant level ("MCL"), maximum residual disinfection level ("MRDL"), treatment technique (TT), monitoring requirements, and testing procedures in 40 C.F.R. part 141. 40 C.F.R. §§ 141.202(a) and 141.202(b) require a Tier I public notice be conducted if the turbidity level exceeds 5 NTU. 40 C.F.R. § 141.205 requires that the notice contain specific content and standard language. In addition, 40 C.F.R. § 141.31(d) requires the water system to send a certification to EPA stating that it has fully complied with the public notification requirements, together with a copy of the notice, within 10 days of conducting the public notification.

2. Respondent did not issue a Tier 1 public notice consistent with 40 C.F.R. §§ 141.202(a) and 141.202(b) within 24 hours after the July 2002 turbidity violation in which the turbidity levels exceeded 5 NTU. EPA also did not receive a copy of the public notice or the boil water advisory distributed by the Ft. Washakie PWS regarding the July 19, 2002 and the May 2003 turbidity violations within 10 days, in violation of 40 C.F.R. § 141.31(d).

VII.



1. 40 C.F.R. § 141.75(b)(3)(ii) requires that EPA be notified within 24 hours if the turbidity of finished drinking water exceeds 5 NTU.
2. Respondent did not notify EPA within 24 hours as required after the turbidity exceeded 5 NTU on July 19, 2002, in violation of 40 C.F.R. § 141.75(b)(3)(ii).

VIII.

1. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the monitoring violation to EPA within ten days after the system discovers the violation.
2. Respondent failed to report to EPA the coliform monitoring violation detailed in Sections III. and IV., in violation of 40 C.F.R. § 141.21(g)(2).

IX.

1. 40 C.F.R. § 141.31(b) requires public water systems to report any failure to comply with any National Primary Drinking Water Regulation (40 C.F.R. part 141) to EPA within 48 hours.
2. Respondent failed to report to EPA instances of noncompliance detailed in Section VI, in violation of 40 C.F.R. § 141.31(b).



X.

1. 40 C.F.R. § 141.75(b)(1) requires public water systems to report turbidity monitoring results to EPA within ten days following the end of the required monitoring period.
2. Respondent failed to report to EPA monitoring results within 10 days following the end of the monitoring period for January, February, April, May, June, July, August, October, and November 2000; December 2000; January, February, March, April, May, June, July and December 2001; January, April, May, June, July, August and November 2002; and February, March, April and May 2003, in violation of 40 C.F.R. § 141.75(b)(1).

ORDER

Based on the foregoing Findings, and pursuant to Section 1414(g) of the Act, IT IS ORDERED:

1. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.73, requiring that the turbidity level of representative samples of a system's filtered water must be less than or equal to 0.5 NTU in at least 95 percent of measurements taken each month and at no time exceed 5 NTU.



2. Within 60 days of the effective date of this Order, Respondent shall provide EPA evidence of repair and/or replacement of currently malfunctioning equipment, including but not limited to, the turbidimeters and in-line chart recorder, and provide documentation by a certified technician that verifies that the repaired/replaced equipment has been calibrated. Respondent shall re-calibrate on a frequency to be established by the manufacturer. After Respondent submits initial documentation as set forth above, Respondent shall submit quarterly maintenance records to EPA, including, but not limited to, a statement of calibration activities, maintenance activities and the status of equipment performance. Respondent shall submit this documentation to EPA on or before the 15th day of the month.
3. Within 60 days of the effective date of this Order, Respondent shall submit to EPA a draft water treatment process operating plan for the public water system that addresses all aspects of the daily treatment process, operator responsibilities and maintenance procedures, in order to achieve compliance with 40 C.F.R. § 141.73. The plan shall include, but not be limited to,



instruction on proper practices for operation of the filtration equipment, chemical addition, jar testing and monitoring. Respondent shall incorporate any EPA comments on the draft plan, and shall submit the final plan to EPA within 30 days after receipt of EPA's comments. After EPA approves Respondent's final plan, Respondent shall implement the plan in daily operations. The plan shall be incorporated into this Order upon written approval by EPA.

4. Within 15 days of EPA's final approval of the operating plan, Respondent shall submit to EPA a schedule for training each operator. Within 60 days of EPA's final approval of the operating plan, Respondent shall provide training for each operator on all aspects of the operating plan to ensure that the system is operated by qualified personnel as required by 40 C.F.R. § 141.70(c). Within 10 days of completion of training, Respondent shall submit to EPA a statement certifying that each operator has completed the training.
5. Upon the effective date of this Order, Respondent shall comply with 40 C.F.R. § 141.21(b), requiring that Respondent take no fewer than 4 repeat samples within



24 hours of being notified of a total coliform positive routine sample. Each repeat sample shall be analyzed for total coliform bacteria. At least one repeat sample shall be taken from each of the following: a) the tap where the original total coliform positive sample was taken, b) from within 5 service connections upstream of the original total coliform positive tap, and c) from within 5 service connections downstream from the original total coliform positive tap. The fourth repeat sample shall be taken anywhere within 5 service connections upstream or downstream of the original total coliform positive tap. Respondent shall report analytical results to EPA within the first 10 days following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

6. Upon the effective date of this Order, Respondent shall comply with all sampling requirements specified in 40 C.F.R. § 141.21(b)(5). If Respondent's water system has one or more total coliform positive samples in a month, Respondent shall collect at least 5 routine samples during the next month that the system provides water to the public. Respondent shall report analytical results to EPA within the first 10 days



following the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).

7. Upon the effective date of this Order, Respondent shall comply with the requirements of 40 C.F.R. § 141.72(b)(2) and 40 C.F.R. §141.74(c)(2), which require that those systems that provide filtration and disinfection must not allow residual disinfectant concentration in the water entering the distribution system to be less than 0.2 mg/l for more than 4 hours. If the disinfectant residual falls below 0.2 mg/l Respondent shall take grab samples every four hours until the residual disinfectant concentration is equal to or greater than 0.2 mg/l. Respondent shall report analytical results to EPA within the first ten days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
8. No later than 24 hours after Respondent learns of a turbidity level violation, as specified in 40 C.F.R. § 141.73 and outlined in Section I of the Findings of Violation in this Order, Respondent shall (1) provide a notice to the public of the violation(s), and (2) initiate consultation with EPA to determine additional public notice requirements, in order to return to



compliance with 40 C.F.R. §§ 141.201, 141.202 and 141.205. This public notice shall be given in one or more of the following forms of delivery: (1) Appropriate broadcast media (such as radio and television); (2) Posting of the notice in conspicuous locations throughout the area served by the water system; (3) Hand delivery of the notice to persons served by the water system; or (4) Another delivery method approved in writing by EPA. Respondent shall comply with any additional public notification requirements that are established as a result of the consultation with EPA. Upon the effective date of this Order, Respondent shall comply with the public notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation. Respondent shall submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).



9. Respondent shall comply with
40 C.F.R. § 141.75(b) (3) (ii) by notifying EPA within 24
hours if the turbidity of finished drinking water
exceeds 5 NTU.
10. Upon the effective date of this Order, Respondent shall
comply with 40 C.F.R. § 141.21(g) (2) by reporting any
failure to comply with coliform monitoring requirements
under 40 C.F.R. § 141.21 to EPA within ten days after
the system discovers the violation.
11. Except where a different reporting period is specified
in any paragraph above, upon the effective date of this
Order, Respondent shall comply with 40 C.F.R. §
141.31(b) by reporting any failure to comply with any
National Primary Drinking Water Regulation (40 C.F.R.
part 141) to EPA within 48 hours.
12. Respondent shall report monthly turbidity monitoring
results to EPA within the first 10 days following the
end of the monitoring period, as required by 40 C.F.R.
§ 141.75.



13. Reporting requirements specified in this Order shall be provided by certified mail to:

Melanie Wasco
U. S. EPA Region 8 (8ENF-T)
999 18th Street, Suite 300
Denver, Colorado 80202-2466

GENERAL PROVISIONS

1. This Order does not constitute a waiver, suspension, or modification of the requirements of 40 C.F.R. § 141.1 et seq., or the Safe Drinking Water Act, which remain in full force and effect. Issuance of this Order is not an election by EPA to forgo any civil or criminal action otherwise authorized under the Act.
2. Violation of any term of this Order instituted under Section 1414(g) (3) (A) of the Act, 42 U.S.C. § 300g-3(g) (3) (A), may subject the Respondent to an administrative civil penalty of up to \$25,000 per day of violation under Section 1414(g) (3) (B) of the Act, 42 U.S.C. § 300g-3(g) (3) (B), or a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(g) (3) (C) of the Act, 42 U.S.C. § 300g-3(g) (3) (C).
3. Violation of any requirement of the SDWA or its implementing regulations instituted under Section



1414(b) of the Act, 42 U.S.C. § 300g-3(b), may subject Respondent to a civil penalty of not more than \$27,500 per day of violation assessed by an appropriate U.S. District Court under Section 1414(b) of the Act, 42 U.S.C. § 300g-3(b).

4. The effective date of this Order shall be the date of issuance of this Order.

Issued this 8TH day of July, 2003.

SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON
JULY 8, 2003.**

